

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JAMES WALTER CLARK,

Plaintiff,

v.

**STATE OF IDAHO, IDAHO STATE
INDUSTRIAL COMMISSION, IDAHO STATE
INSURANCE FUND, RACHEL M. O'BAR,
And LYNN M. LUKER,**

Defendant.

MOSMAN, J.,

No. 3:14-cv-01497-ST

OPINION AND ORDER

On October 20, 2014, Magistrate Judge Stewart issued her Findings and Recommendation ("F&R") [6], recommending that *pro se* Plaintiff, James Walter Clark's Complaint [2] should be DISMISSED WITH PREJUDICE and his Motion for Appointment of Pro Bono Counsel [3] should be DENIED AS MOOT. Judge Stewart also recommended that Clark's application to proceed *in forma pauperis* [1] should be GRANTED.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to

make a *de novo* determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, *de novo* or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Stewart's recommendation and I ADOPT the F&R [6] as my own opinion.

IT IS SO ORDERED.

DATED this 9th day of December, 2014.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge